



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examinations

1100 Commerce Street, MC 4920 DAL

Dallas, TX 75242

501.03-00

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

August 5, 2013

Number: **201414022**

Release Date: 4/4/2014

LEGEND

ORG – Organization name

XX – Date Address – address

ORG

ADDRESS

Taxpayer Identification Number:

Person to Contact:

Identification Number:

Contact Telephone Number:

CERTIFIED MAIL

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated November 17, 20XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective May 10, 20XX.

The revocation of your exempt status was made for the following reason(s):

You are not engaged primarily in activities which accomplish charitable, educational, or any other exempt purposes as required by Treas. Reg. section 1.501(c)(3)-1(c)(1). Your activities more than insubstantially furthered non-exempt purposes and your income inured to the benefit of private shareholders and individuals. In addition, you operated for the benefit of private, rather than public interests, as required for continued recognition of exemption pursuant to Treas. Reg. section 1.501(c)(3)-1(d)(1)(ii).

Contributions to your organization are no longer deductible under IRC §170 after May 10, 20XX.

You are required to file income tax returns on Form 1041. These returns should be filed with the appropriate Service Center for the tax year ended December 31, 20XX, December 31, 20XX, and for all tax years thereafter in accordance with the instructions

of the return.

Pursuant to section 509(b) of the Code, your private foundation status continues unless your status as such is terminated under section 507 of the Code. Therefore, in addition to filing Form 1041, you are required to continue filing Form 990-PF and you are still subject to excise taxes under Chapter 42 of the Code until such time as you terminate your private foundation status under section 507 of the Code.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to these courts at the following addresses:

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosure:
Publication 892

Internal Revenue Service

Department of the Treasury

Internal Revenue Service

TE/GE Exemption Organizations Examination
1100 Commerce Street, MC 4980 DAL
Dallas, TX 75242

ORG

ADDRESS

May 21, 2012

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We propose to revoke our recognition of your exempt status as an organization described in section 501(c)(3) of the Internal Revenue Code (the Code). We enclose our report of examination explaining why we are proposing this action.

If you accept our proposal, please sign and return the enclosed Form 6018, *Consent to Proposed Action - Section 7428*, unless you have already provided us a signed Form 6018. We will issue a final revocation letter determining you are not an organization described in section 501(c)(3). After the issuance of the final revocation letter we will publish an announcement that you have been deleted from the cumulative list of organizations contributions to which are deductible under section 170 of the Code.

If you do not respond to this proposal, we will similarly issue a final revocation letter. Failing to respond to this proposal may adversely impact your legal standing to seek a declaratory judgment because you may be deemed to have failed to exhaust administrative remedies.

If you do not agree with our proposed revocation and wish to protest our proposed revocation to the Appeals Office of the Internal Revenue Service, then you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. This written request is called a protest. For your protest to be valid it needs to contain certain specific information which generally includes a statement of the facts, the applicable law, and arguments in support of your position. For the specific information needed for a valid protest, please refer to page 6 of the enclosed Publication 3498, *The Examination Process*, and page 1 of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*. If you do submit a valid protest, then an Appeals officer will review your case. The Appeals Office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498 and Publication 892 explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast

Track Mediation Services referred to in Publication 3498, generally do not apply after issuance of this letter. You may also request that we refer this matter for Technical Advice as explained in Publication 892 and an annual revenue procedure. Please contact the individual identified on the first page of this letter if you are considering requesting Technical Advice. If we issue a determination letter to you based on a Technical Advice Memorandum issued by the EO Rulings and Agreements function, then no further administrative appeal will be available to you within the IRS on the matter.

If you receive a final revocation letter, you will be required to file Federal income tax returns for the tax period(s) shown above as well as for subsequent years.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:

Publication 892
Publication 3498
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX 12/31/20XX	

LEGEND

ORG - Organization name EIN - ein XX - Date Address - address City - city State - state website - website motto - motto Agent - agent
 FDN-1 & FDN-2 - 1st & 2nd FDN RA-1, RA-2, RA-3 & RA-4- 1st, 2nd, 3rd, & 4th, RA
 CO-1 THROUGH CO-83 - 1st THROUGH 83rd COMPANIES

Issues:

Whether ORG (Foundation) qualifies for exemption under Section 501(c)(3) of the Internal Revenue Code?

Facts:

Charitable Trust:

FDN-1 and FDN-2 created the ORG, a charitable trust, on May 10, 20XX. The trust document provides the following:

The Founder, FDN-1, hereby transfers property to the Trustees, and the Trustees hereby declare and agree that they have received this day from FDN-1 as Donors, the sum of \$ (\$) and that they will hold and manage the same and any additions to it in trust, as follows:

Article I

The name of this Trust shall be the "ORG".

Article II

The ORG is created exclusively for charitable, religious, scientific, literary and educational purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code.

Article IV

- (a) *The principal and income of all property received and accepted by the Trustees to be administered under this Trust Agreement shall be held in trust by them, and the Trustees may make payments or distributions from income or principal, or both, to or for the benefit of such one or more organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code (or the corresponding provision of any future United States Internal Revenue Law), as the Trustees shall from time to time determine; and the Trustees may make payments or distributions from income or principal, or both, directly for the charitable purposes of the ORG, as defined in paragraph (i) of Article VI, as the Trustees shall from time to time determined.*
- (b) *Income or principal derived from contributions by corporations shall be distributed by the Trustees for use solely within the United States or its possessions.*

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX 12/31/20XX	

- (c) *No part of the net earnings of the ORG shall inure or be payable to or for the benefit of any private individual, and no substantial part of the activities of the ORG shall be carrying on of propaganda, or otherwise attempting, to influence legislation.*
- (d) *No part of the activities of the ORG shall be the participation in, or intervention in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.*
- (e) *The Trustees shall distribute the income of the ORG for each tax year at such time and in such manner as not to become subject to the tax on undistributed income imposed by section 4942 of the Internal Revenue Code (or the corresponding provision of any future United States Internal Revenue Law). Further, the Trustees shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code (or the corresponding provision of any future United States Internal Revenue Law) nor retain any excess business holdings as defined in section 4943(c) of the Internal Revenue Code (or the corresponding provision of any future United States Internal Revenue Law), not make any investments in such manner as to incur tax liability under section 4944 of the Internal Revenue (or the corresponding provision of any future United States Internal Revenue Law), nor make any taxable expenditure as defined in section 4945(d) of the Internal Revenue Code (or the corresponding provision of any future United States Internal Revenue Law).*

Article VI

- (i) *In this Trust Agreement and in any amendments to it, the term "charitable purposes" shall be limited to and shall include only charitable, religious, scientific, literary, or educational purposes within the meaning of those terms as used in section 501(c)(3) of the Internal Revenue Code (or the corresponding provision of any future United States Internal Revenue Law), but only such purposes as also constitute charitable purposes under the law of trusts of the State of State.*

Private Foundation Status

Internal Revenue Service granted private foundation status to ORG on November 17, 20XX.

Internal documents indicate that the Form 1023 *Application for Recognition of Exemption* filed by FDN-1 was accepted on merit.

Website:

ORG has its own website

The website stated the following:

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN		Year/Period ended 12/31/20XX 12/31/20XX

THE ORG

1. *ORG*

2. *ORG*

3. *ORG*

4. *ORG*

5. *ORG*

6. *ORG*

7. *ORG*

8. *ORG*

9. *ORG*

10.

the ORG

The ORG

Appointment and Information Document Request (IDR):

An appointment letter and IDR #1 was issued with Publication 1. The audit appointment was scheduled at Address, City, State on December 6, 20XX at 9:00 am. The trustees, FDN-1 and FDN-2, failed to appear for the interview.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX 12/31/20XX	

The response to IDR # 1 the Trustee, FDN-1, stated:

"The ORG is subject to examination by those lawfully authorized to do so. This notice will serve as acceptance of that fact. Conversely is it not required in any way to comply with requests from unauthorized or unidentified requestors.

Your examination request is for a "taxpayer" and shows ORG's "employer identification number" as a "taxpayer identification number." Your request was accompanied by a copy of "Your Rights as a Taxpayer," an IRS publication. The ORG was funded as a "tax exempt" organization, a "non-taxpayer."

Please send a color copy of your pocket commission, drivers license or government identification along with your response to the following questionnaire signed under penalty of perjury so that your authority to conduct an examination of ORG can be established and complied with. Please note that all questions referring to "Citizen" are deemed to include "ORG" and/or "Trustee." Note also that your sworn signature applies to questions added on the addendum of this questionnaire.

Your failure to respond with the requested documents and answers within 30 days of the signed receipt of this letter will be accepted as your admission that you, RA-4, do not in fact have the proper authority to conduct an examination of the ORG, a non-taxpayer. Should you be unable or unwilling to prove and validate your authority this request will automatically apply to any successor in your or any other agency. All information about the ORG is confidential and subject to the responsibility of the trustee. The term "paper terrorism" will apply to unauthorized and non-validated repeated requests for disclosure of confidential information regarding the ORG."

Another letter from FDN-1 was received on January 23, 20XX.

"It has been over 30 days since your agent signed receipt for my letter to you dated 12/2/20XX, certified mail #. You have not responded in any way during this time. You have not remitted a copy of your pocket commission, driver's license, government identification or any answers on the public servant questionnaire or its addendum.

By your lack of response you have tacitly admitted to operating under color of authority using the US Mail to solicit confidential and unauthorized information, a serious offense.

Anyone else in your agency who contemplates a like inquiry or demand to me or any other representative of the ORG without providing this important information concurrently has been likewise noticed.

Trustees of the ORG have been and will be happy to respond to properly identified agents who submit fully to the letter of the law. Any actions taken by improperly identified or otherwise invalidated agents or actors under color of law against any trustee or asset of the ORG will be accepted as an act of fraud subject to prosecution in court in State or the United States of America."

Forms 990-PF

The Forms 990-PF filed by ORG provided the following:

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN		Year/Period ended 12/31/20XX 12/31/20XX

Contributions received for the year 20XX:

Line 1, Part 1, contributions received	\$\$
Line 12, Part 1 total revenue received	\$\$

The Attachment #1 of Form 990-PF provided the contributors and the amounts of the contributions:

Contributors	Amount
Anonymous Donor	
CO-1	
CO-2	
CO-3	
CO-4	
CO-5	
CO-6	
CO-7	
CO-8	
CO-9	
CO-10	
CO-11	
Insurance Refunds	
FDN-1	
CO-12	
CO-13	
CO-14	
Total Contributions shown on Line 1, Part I of F990-PF	\$\$

Expenses for the year 20XX:

The Form 990-PF filed by the Foundation listed the expenses as shown below:

Expenses	Amount
Compensation of officers, directors, trustees, etc.	
Legal fees	
Accounting fees	
Other professional fees	
Depreciation and depletion	

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX 12/31/20XX	

Expenses	Amount
Occupancy	
Travel, conferences, and meetings	
Other Expenses	
Office Supplies	
Telephone/Telecom	
Books, subscrip, reference	
Insurance	
Auto Expense	
Bank Charges	
Postage & Shipping	
Contributions, gifts, grants paid	
Total Contributions shown on Line 1, Part I of F990-PF	

Contributions received for the year 20XX:

Line 1, Part 1 contributions received
Line 12, Part 1, total revenue received

The Attachment #1 of Form 990-PF provided the contributors and the amounts of the contributions:

Contributors	Amount
CO-15	
CO-16 ¹	
Anonymous Donor	
CO-8	
FDN-1	
Various Small Donors	
Total Contributions shown on Line 1, Part I of F990-PF	\$

Expenses for the year 20XX:

The Form 990-PF filed by the Foundation listed the expenses as shown below:

Expenses	Amount
Compensation of officers, directors, trustees, etc.	

¹ CO-16 is the owner of CO-17

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN		Year/Period ended 12/31/20XX 12/31/20XX

Expenses	Amount
Legal fees	
Accounting fees	
Depreciation and depletion	
Occupancy	
Travel, conferences, and meetings	
Other Expenses	
Office Supplies	
Telephone/Telecom	
Dues	
Insurance	
Bank Charges	
Postage & Shipping	
Repairs & Maintenance	
Contributions, gifts, grants paid	
Total Contributions shown on Line 1, Part I of F990-PF	

In addition to the Forms 990 under the years of examination, prior years Forms 990 were also reviewed for comparative purposes. The contributor information for the years 20XX through 20XX is summarized below.

Form 990 Schedule B for the years 20XX - 20XX:

Year	Contributors	Amount
20XX	CO-18	
	CO-8	
20XX	CO-4	
20XX	CO-8	
	CO-19	

Summoned Information

A joint examination was performed on ORG and the Trustees by Exempt Organization and Small Business / Self Employed Divisions (SBSE) Divisions of the Internal Revenue Service (IRS).

A summons was issued to CO-20 by the SB/SE Revenue Agent, Agent for the bank records of FDN-1 Trustee of ORG.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX 12/31/20XX	

Per the summons request, the CO-20 provided checking account information including the bank statements, copies of deposit slips, and copies of the front and back of deposited checks.

A copy of the summons information was provided to the examiner for the Foundation audit.

The summoned information is summarized below:

Deposits for the year 20XX:

<u>Deposits</u>	<u>Amount</u>
Cash In	
Checking Deposit	
CO-1	
CO-19	
CO-21 ²	
CO-21 ³	
CO-21 ⁴	
CO-22	
FDN-1	
FDN-2	
CO-23 ⁵	
Total deposits	

Deposits for the year 20XX:

<u>Deposits from</u>	<u>Amount</u>
Cash In	
Checking Deposit	

² The check was issued by CO-17 to CO-21. An endorsement on the back of the check stated, "Endorsed By CO-21 Pay to the Order of: ORG". The check was deposited by ORG.

³ The check was issued by CO-25 to CO-21. An endorsement on the back of the check stated, "Endorsed By CO-21 Pay to the Order of: ORG". The check was deposited by ORG.

⁴ The check was issued by CO-6 Inc. to CO-21. An endorsement on the back of the check stated, "Endorsed By CO-21 Pay to the Order of: ORG". The check was deposited by ORG.

⁵ A note in the bottom left section of the check stated, "Return of Principal %".

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX 12/31/20XX	

<u>Deposits from</u>	<u>Amount</u>
CO-15 Inc.	
CO-17	
CO-1	
CO-24	
CO-21 ⁴	
CO-21 ³	
CO-21 ⁶	
CO-21 ⁷	
CO-26	
CO-22	
CO-27	
CO-28	
FDN-1	
FDN-1	
FDN-1 & FDN-2	
FDN-2	
CO-29	
Total deposits	

A summons was issued to CO-20 by the Foundation examiner request requesting copies of cancelled checks issued by ORG.

The copies of cancelled checks from the CO-20 account for the years 20XX and 20XX are categorized and summarized below. The checks are categorized by the references on notes/memo section of the cancelled checks.

Cancelled checks for the year 20XX

<u>Checks issued to</u>	<u>Amount</u>
Credit Card	

⁶ The check was issued by CO-34 to CO-21 An endorsement on the back of the check stated, "Endorsed By CO-21 Pay to the Order of: ORG". The check was deposited by ORG.

⁷ The check was issued by CO-15 Inc. to CO-21 An endorsement on the back of the check stated, "Endorsed By CO-21 Pay to the Order of: ORG". The check was deposited by ORG.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX 12/31/20XX	

Checks issued to	Amount
CO-30	
CO-31	
Insurance	
CO-32	
CO-33	
CO-35	
CO-36	
CO-37	
CO-38	
CO-39	
Rent	
CO-40	
Utilities	
CO-41	
CO-42	
CO-43	
Entertainment	
CO-44	
Donations	
CO-45	
CO-46	
CO-47	
Medical	
CO-48	
CO-49	
Other Expenses	
CO-50	
CO-51	
CO-52	
CO-53	
CO-54 ⁸	

⁸ Bookkeeping consultant

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN		Year/Period ended 12/31/20XX 12/31/20XX

Checks issued to	Amount
CO-55	
CO-56	
CO-57	
CO-58 ⁹	
CO-59	
CO-60	
CO-61	
CO-62	
CO-63	
CO-64	
CO-65 ¹⁰	
CO-66	
Bank Service Charges	
Total Expenses	

Cancelled checks for the year 20XX

Checks issued to	Amount
Credit Card	
CO-30	
CO-31	
Insurance	
CO-32	
CO-33	
CO-35	
CO-36	
CO-37	
CO-38	
CO-39	
Medical	
CO-67	
CO-68	

⁹ The check memo indicated that it was a dental expense.

¹⁰ Reunion

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN		Year/Period ended 12/31/20XX 12/31/20XX

Checks issued to	Amount
Rent	
CO-40	
CO-69	
Utilities	
CO-41	
CO-42	
CO-43	
Entertainment	
CO-44	
Donations	
CO-70	
Other Expenses	
CO-71	
CO-72	
CO-73	
DMV	
CO-74	
Attorney General Registry	
CO-75 – CO-75	
CO-76	
CO-77	
CO-78	
CO-79	
Bank Service Charges	
Other ¹¹	
Total Expenses	

Third Party Information:

The following information was shared during this joint examination.

¹¹ The recipients of the checks were unable to determine.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX 12/31/20XX	

- Agent interviewed RA-1, a representative of CO-4, on March 27, 20XX with respect the issues to his examination.

Agent asked, "Does he work for your company as an employee?" RA-1 replied that FDN-1 helped with trade shows and he picks up business from going to the trade shows. RA-1 also indicated that FDN-1 worked for a couple of CO-4s suppliers and that the main supplier of CO-4 is CO-80 FDN-1 is a representative of CO-80

- April 24, 20XX Agent issued a third party request to CO-80.

RA-2, the National Sales Manager of CO-80, responded to the letter stating,

"The following are answers to the questions in your letter to RA-3 dated April 24, 20XX:

1. CO-80 had a working relationship with FDN-1 from 19XX to 20XX.
 2. FDN-1 was a sales representative.
 3. FDN-1 was an independent salesman.
 4. FDN-1 received compensation equal to a percentage of the sales of CO-80 materials in his sales territory.
 5. 1099 Forms were issued to FDN-1 for the years he was compensated.
 6. N/A
 7. FDN-1 received the following compensation from CO-80:
 - a. 19XX = \$\$ estimated
 - b. 19XX = \$\$ estimated
 - c. 20XX = \$\$
 - d. 20XX = \$\$
 - e. 20XX = \$\$
 - f. 20XX = \$\$
 - g. 20XX = \$\$
 - h. 20XX = \$\$
 - i. 20XX = \$\$
 8. FDN-1 signed a contract as "an authorized agent" for CO-81 We do not know if he owned or operated CO-81.
 9. ACH's payments were sent to the bank account(s) provided by FDN-1. We do not know whether there was more than one bank account credited during this time period, nor do we know the name on the account(s)."
- A third party information request was sent to CO-82 by Agent. A letter sent by CO-82 dated May 4, 20XX, stated, "I have confirmed that the checks you sent me were from CO-82 and were paid to CO-81. CO-81 is FDN-1's company. The checks were for commissions earned. No payments were made to CO-81 Co. for the years 20XX-20XX. Payments were made for \$ and \$ for the years 20XX and 20XX respectively."
 - Third Party Letter for the year 20XX was issued to CO-15, Inc.

CO-15, Inc. responded to the request and provided a statement and cancelled checks. The statement provided by CO-15, Inc. stated, "No receipts for materials were given. The cancelled check was the

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX 12/31/20XX	

receipt. There were no contracts or invoices either. The only correspondence was through phone calls or delivery of the materials."

The cancelled checks information were summarized and shown below:

Check #	Date	Issued To	Amount
	08/07/XX	ORG	\$
	09/15/XX	ORG	\$
	10/12/XX	ORG	\$
	10/16/XX	ORG	\$
	11/10/XX	ORG	\$
Total CO-15, Inc. Paid			\$

Law:

Section 501(c)(3) of the Internal Revenue Code exempts from federal income tax, organizations organized and operated exclusively for religious, charitable, scientific, or educational purposes whereby no part of the net earnings inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation and which does not intervene on behalf of (or in opposition to) any candidate for public office.

Section 1.501(c)(3)-1 of the federal income tax regulations states that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more purposes specified in such section. If an organization fails to meet either the organizational or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more purposes only if it engages primarily in activities which accomplish one or more such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 170(c)(2)(B) defines the "charitable contribution" as a contribution or gift to of for the use of a foundation that is organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes.

Section 7602(a) permits the Service, for any statutorily authorized purpose, to:

- (1) examine any books, papers, records, or other data;
- (2) summon a taxpayer or any other person, requiring the person to appear, to produce books and records, and to give testimony under oath; and
- (3) take such testimony under oath

Treasury Regulation Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. The regulation places the burden of proof on the organization to demonstrate that it is not organized or operated for the

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX 12/31/20XX	

benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly by such private interests.

Government's Position:

ORG fails to qualify for exemption under section 501(c)(3) of the Internal Revenue Code. An organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. The regulation places the burden of proof on the organization to demonstrate that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly by such private interests (Treasury Regulation Section 1.501(c)(3)-1(d)(1)(ii)).

The Trustees of the Foundation did not appear for the scheduled audit appointment and failed to respond to the IDR requesting organization information to determine that the Foundation was operating in a charitable manner. In part, correspondence from FDN-1 stated, "The ORG is subject to examination by those lawfully authorized to do so. This notice will serve as acceptance of that fact. Conversely it is not required in any way to comply with requests from unauthorized or unidentified requestors." The appointment was scheduled using the standard appointment letter, containing all appropriate revenue agent information. Enclosed with that letter was Publication 1, Your Rights as a Taxpayer. IRC section 7602 details the authority to examine books and witnesses to ascertain the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax. Had the scheduled appointment been kept, the pocket commission would have displayed to the Trustees. In addition, the audit was scheduled at an IRS Office.

ORG's purpose is to make grants exclusively to other qualified 501(c)(3) organizations classified as public charities for religious, charitable, educational, scientific and literary purposes. ORG made \$ and \$ of grants to other qualified 501(c)(3) organizations in the years 20XX and 20XX, respectively.

The Forms 990-PF reported that \$\$ and \$ of contributions were received by the Foundation for the years 20XX and 20XX, respectively. Summoned information provided by CO-20 revealed that the funds deposited in the account of the Foundation were from many different sources including CO-15 Inc., CO-17, CO-19, CO-82, CO-6 Inc., CO-21, etc.

Third party information from CO-15, Inc. revealed that FDN-1 sold some roofing materials to CO-15, Inc. and payments to ORG were for the roofing materials that were delivered by FDN-1. As such, the payments should not be reported as a contribution on the Foundation return.

Third party information from CO-82 confirmed that the payments sent from CO-82 were paid to CO-81 for commissions earned, and that CO-81 is FDN-1's company. As such, the payments were for services rendered and should not be reported as contributions on the Foundation return.

RA-1, a representative of CO-4, explained during the interview that FDN-1 helped with trade shows and FDN-1 picks up business from going to the trade shows. FDN-1 worked for a couple of CO-4s suppliers, and that the main supplier of CO-4 is CO-80 FDN-1 is a representative of CO-80

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX 12/31/20XX	

RA-2, the National Sales Manager of CO-80, confirmed that FDN-1 signed a contract as "an authorized agent" for CO-81 and received compensation equal to a percentage of the sales of CO-80 materials in his sales territory from the years 19XX to 20XX. Compensation should be reported on a personal tax return and not as a contribution on the Foundation return.

The third party information revealed that FDN-1 was operating a roofing/roofing material business. Website information reveals the following:

- FDN-1 was listed on the CO-83 website¹² as a factory reference for CO-80 Single-Ply System.
- FDN-1 was mentioned in the CO-80 sales representative accomplishments list for the years 20XX through 20XX.
- FDN-1 was listed as administrative assistant for CO-4 at the Shopping Centers Meeting held in City, State on May 23 through May 25, 20XX.

Forms 990-PF filed by the Foundation since inception were inspected for comparative information. The Schedule B information for the years 20XX through 20XX, in addition to the 20XX and 20XX years revealed the following:

Year	Contributors	Amount	Total Revenue	% of Revenue
20XX	CO-18			Footnote 14
	CO-8			Footnote 14
20XX	CO-4			%
20XX	CO-8			%
	CO-19			%
20XX	CO-8			%
20XX	CO-15			%
	CO-16			%
	Anonymous Donor			%
	CO-8			
	FDN-1			%

ORG is a charitable private foundation. ORG is not in the roofing or roofing materials business.

The information gathered from third parties and the amounts shown on the Forms 990 reveal that payments for materials received and services performed are being reported as contributions from various

¹² website

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX 12/31/20XX	

corporations. The interviews and correspondence with the various officials confirm their payments for services and/or materials rather than contributions.

Since the taxpayer declined to meet with the Revenue Agent or respond to the IDR requesting operational information, the intent of the Taxpayer is unknown in reporting these items as contributions. A review of SB/SE summoned information revealed that the only account that FDN-1 had signature authority for was the ORG account. A review of the expenses for 20XX and 20XX reveal that most expenses were for the personal benefit of the Trustees. Expense information is detailed in the facts section of this report. Charitable disbursements in the amounts of \$ and \$ were made while at the same time total expenditures were \$ and \$ respectively. A review of internal systems revealed that no returns have been filed by either FDN-1 or FDN-2, personally or jointly for the period 20XX through 20XX. ORG was created on May 10, 20XX.

As stated in Treasury Regulation Section 1.501(c)(3)-1(c)(1), "an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3)." Since a substantial amount of the Foundation's disbursements were for personal purposes and contributions to charity minimal, the Foundation is not engaging primarily in activities that accomplish exempt purposes under IRC Section 501(c)(3).

The Foundation is being operated for private rather than public interests since a substantial of its total expenditures were personal in nature. As stated in Treasury Regulation Section 1.501(c)(3)-1(d)(1)(ii), an organization is not operated for exempt purposes it is being operated for private interests.

Accordingly, the Foundation's status, as an organization described under section 501(c)(3) of the Internal Revenue Code, should be revoked effective May 10, 20XX. The Foundation was not organized and operated exclusively for exempt purposes because it served the private interests of its trustees.